Caleb L. McGillvary, Pro Se #1222665/SBI#102317G NJSP PO Box 861 Trenton, NJ 08625

Clerk, US Dist. Ct. - DNJ US Courthouse 50 Walnut St. Newark, NJ 07102

> RE: Caleb L. McGIllvary v. James Galfy et al Civil Action No. 2:21-cv-17121-MCA-CLW Hon. Madeline Cox Arleo, U.S.D.J. Hon. Cathy L Waldor, U.S.M.J.

Dear Clerk;

Please find enclosed and file onto the docket the original of my motion, notice, declaration, and proposed order in support of my motion for an order that the matters set forth in Plaintiff's First Set of Requests for Admission be taken as conclusively established under the terms of Rule 36; and proof of service thereof; in the above-captioned matter.

Kind Regards, Caleb L. McGillvary In Propria Persona

ENCL: CC: FILE

# PROOF OF SERVICE

I, Caleb L. McGillvary, declare pursuant to 28 U.S.C. 1746 that on today's date, I placed in the institutional mailing system here where I'm incarcerated at NJ State Prison 3rd & Federal Streets Trenton, NJ 08625; with First Class Postage prepaid to be sent via USPS Mail; the original and 3 copies of my motion, notice, declaration, and proposed order in support of my motion for an order that the matters set forth in Plaintiff's First Set of Requests for Admission be taken as conclusively established under the terms of Rule 36 to the Clerk of the USDC-DNJ at 50 Walnut St. Newark, NJ 07102 for filing; and a copy of each said document to Barbara Schwartz Attorney for James Galfy and the Estate of Joseph J. Galfy, Jr. at 37 Mountain Blvd. Warren, NJ 07059 for service.

I hereby invoke the prison mailbox rule.

I declare under penalty of perjury that the foregoing statements

made by me are true and accurate Executed this Day of

Caleb L. McGillvary, Pro Se #1222665/SBI#102317G NJSP PO Box 861 Trenton, NJ

08625-0861

U.S. DISTRICT COURT DISTRICT OF NEW JERSEY RECEIVED

2024 APR 12 A 11:07

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

CALEB L. MCGILLVARY	CIVIL ACTION	1 NO.
PLAINTIFF	2:21-cv-1712	21-MCA-CLW
	Hon. Madelir	ne Cox Arleo, USDJ
V.	Hon. Cathy I	L Waldor, USMJ
JAMES GALFY ET AL		
DEFENDADTS		

MOTION FOR ORDER THAT FACTS OR GENUINENESS BE TAKEN AS ESTABLISHED (Fed. R. Civ. P.36(a)(6), (b))

#### Relief Sought

Caleb L. McGillvary ("Plaintiff"), moves the court for an order that the matters set forth in his declaration in support of this motion, from his First Set of Requests for Admission, be taken as conclusively established under the terms of Rule 36, and that James Galfy, defendant, not be permitted to withdraw or amend those admissions in this action.

#### Grounds for Relief

In support of this motion, Plaintiff shows:

- 1. On December 14, 2023, the Requests for Admissions attached to this Motion as Exhibit A were served on James Galfy.
- 2. A true and correct copy of the Certificate of Service of the Requests for Admissions is attached to this Motion as Exhibit B.
- 3. James Galfy admitted the following to the Requests for Admissions in his Response dated January 4, 2024:
- a.) Defendant identified the body of Joseph J. Galfy, Jr. at the University of Medicine and Dentistry of New Jersey
- b.) During the identification described in Request No. 1, Junaid Shaikh, M.D. was present
- c.) Defendant has previously participated in criminal investigations in which there were autopsies performed by a

#### medical examiner

- d.) Defendant knew that Junaid Shaikh, by virtue of his being the medical examiner who conducted the autopsy of Joseph J. Galfy, Jr., was likely to be a witness in any homicide trial concerning Joseph J. Galfy, Jr
- e.) The identification described in Request No. 1 occured prior to the disbursement of any of the Estate of Joseph J. Galfy, Jr.
- f.) Defendant knew at the time of the identification described in Request No. 1 that the University of Medicine and Dentistry of New Jersey was the workplace of Junaid Shaikh.
- g.) Defendant disbursed \$150,000 from the estate of Joseph J. Galfy, Jr. to the University of Medicine and Dentistry of New Jersey  $\frac{1}{2}$
- h.) Defendant's disbursement described in Request No. 7 occured subsequent to the identification described in Request No. 1
- i.) On April 28, 2015, Defendant personally signed a check for \$150,000 payable to the Rutgers University Center for Alcohol Studies
- j.) Robert Pandina was the director of the Rutgers University Center for Alcohol Studies at the time of the disbursement described in Request No. 9
- k.) Robert Pandina was consulted by the Union County Proscutor's Office in connection with the criminal case against Plaintiff for the alleged homicide of Joseph J. Galfy, Jr.
- 1.) Defendant obtained a Certification of Letters Testamentary regarding the Estate of Joseph J. Galfy, Jr. on March 21, 2016
- m.) The Union County Prosecutor's Office wrote a letter to Plaintiff's counsel on March 23, 2016, the true copy of which was attached to the proposed amended complaint in the above-captioned case
- n.) The Union County Prosecutor's Office contacted Defendant within 7 days prior to March 21, 2016
- o.) Defendant's acquisition of the Certificate of Letters Testamentary described in Request No. 12 was a result of the Union County Prosecutor's Office contact described in Requst No. 14
- p.) The Estate of Joseph J. Galfy, Jr. has a bank account at the Bank of America, Account # 381034636525, Bank # 02120033
- q.) The bank account described in Request No. 16 is under the

care, custody, or control of James Galfy

- r.) The disbursements from the Estate of Joseph J. Galfy, Jr. described in Requests No. 7 & 9 were both drawn from the bank account described in Request No. 16
- s.) The disbursement described in Request No. 9 caused a conflict of interest with Robert Pandina that prevented him from testifying at Plaintiff's trial for the homicide of Joseph J. Galfy, Jr.
- t.) Defendant was aware of the confilct of interest described in Request No. 19 subsequent to the meeting described in Request No. 14
- u.) Defendant made no effort to correct his creation of the conflict of interest described in Request No. 19 after being made aware of it
- v.) Defendant has made other disbursements from the Estate of Joseph J. Galfy from the account described in Request No. 16
- 4. as of today's date, James Galfy has completely failed to respond to the Requests for admissions, and is deemed by the Court Rules to have admitted each of the matters so requested.
- 5. In light of the foregoing facts, Fed. R. Civ. P. 36(a)(6), (b) specifically provides that the facts referred to in "3." above be taken as established for the purpose of this action.

#### Motion Papers

All of the facts needed to support this Motion are set forth in the Declaration of Caleb L. McGillvary.

This motion is based on the pleadings and papers on file in this action, this motion, the attached Notice of Motion and Exhibits, the declaration of Caleb L. McGillvary, and whatever evidence and argument is presented at the hearing of this motion.

By:

Caleb L. McGi

#1222665/SB##102317G NJSP

PO Box 861 Trenton, NJ

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

CALEB L. MCGILLVARY	) CIVIL ACTION NO.
PLAINTIFF	) 2:21-cv-17121-MCA-CLW
	) Hon. Madeline Cox Arleo, USDJ
V.	) Hon. Cathy L Waldor, USMJ
	)
JAMES GALFY ET AL	)
DEFENDADTS	)

NOTICE OF MOTION FOR ORDER THAT FACTS OR GENUINENESS BE TAKEN AS ESTABLISHED (Fed. R. Civ. P.36(a)(6), (b)

TO: CLERK, ALL CAPTIONED PARTIES

Please take notice that, on a date and time to be determined by the Court, Plaintiff Caleb L. McGillvary ("Plaintiff") hereby moves the Court for an order that the matters set forth in his Declaration in support of this motion, from his First Set of Requests for Admission, be taken as conclusively established under the terms of Rule 36, and that James Galfy, defendant, not be permitted to withdraw or amend those admissions in this action

As grounds for this motion, Plaintiff relies upon his Declaration and Motion in support of this motion filed herewith.

A proposed form of order is lodged herewith

Date: 4/4/11

Caleb I. McGillvary, Pro Se #1222665/SBI#102317G NJSP PO Box 861 Trenton, NJ 08625-0861

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY
CALEB L. MCGILLVARY  PLAINTIFF  2:21-cv-17121-MCA-CLW  Hon. Madeline Cox Arleo, USDJ  V.  Hon. Cathy L Waldor, USMJ  DEFENDADTS  )
ORDER THAT FACTS OR GENUINENESS BE TAKEN AS ESTABLISHED (Fed. R. Civ. P.36(a)(6), (b))
The Motion of Caleb L. McGillvary for an order that the matters set forth in his Declaration in support of this motion, adopted by reference herein, from First Set of Requests for Admission be taken as conclusively established under the terms of Rule 36, and that James Galfy, defendant, not be permitted to withdraw or amend those admissions in this action was submitted on <a href="[date]">[date]</a> . The court has reviewed the papers submitted and considered the arguments of counsel as well as the authorities cited. Being so informed, and for good cause shown:
IT IS ORDERED THAT:
1. The motion is GRANTED to the extent that: a. The facts that James Galfy is deemed to have admitted under Rule 36 in Requests 1-22 of Plaintiff's First Set of Requests For Admissions are conclusively established for the purposes of this action and all others relating to such facts; b. All objections previously made to these requests for admissions are waived or overruled.
Dated: Hon, U.S.D.J.

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

CALEB L. MCGILLVARY	) CIVIL ACTION NO.
PLAINTIFF	) 2:21-cv-17121-MCA-CLW
	) Hon. Madeline Cox Arleo, USDJ
V.	) Hon. Cathy L Waldor, USMJ
	)
JAMES GALFY ET AL	)
DEFENDADTS	. )

DECLARATION IN SUPPORT OF MOTION FOR ORDER THAT FACTS OR GENUINENESS BE TAKEN AS ESTABLISHED (Fed. R. Civ. P. 36(a), (b))

- I, Caleb L. McGillvary, hereby declare pursuant to 28 U.S.C. 1746 the following:
- 1. I am the pro se plaintiff in the above-captioned matter.
- 2. On February 14, 2024, I caused to be served on the attorney of record for James Galfy Requests for Admissions pursuant to Rule 36 of the Federal Rules of Civil Procedure. The Request included the following:

"REQUEST No. 1: Defendant identified the body of Joseph J. Galfy, Jr. at the University of Medicine and Dentistry of New Jersey

REQUEST No. 2: During the identification described in Request No. 1, Junaid Shaikh, M.D. was present

REQUEST No. 3: Defendant has previously participated in criminal investigations in which there were autopsies performed by a medical examiner

REQUEST No. 4: Defendant knew that Junaid Shaikh, by virtue of his being the medical examiner who conducted the autopsy of Joseph J. Galfy, Jr., was likely to be a witness in any homicide trial concerning Joseph J. Galfy, Jr

REQUEST No. 5: The identification described in Request No. 1 occured prior to the disbursement of any of the Estate of Joseph J. Galfy, Jr.

REQUEST No. 6: Defendant knew at the time of the identification

described in Request No. 1 that the University of Medicine and Dentistry of New Jersey was the workplace of Junaid Shaikh.

REQUEST No. 7: Defendant disbursed \$150,000 from the estate of Joseph J. Galfy, Jr. to the University of Medicine and Dentistry of New Jersey

REQUEST No. 8: Defendant's disbursement described in Request No. 7 occured subsequent to the identification described in Request No. 1  $^{\circ}$ 

REQUEST No. 9: On April 28, 2015, Defendant personally signed a check for \$150,000 payable to the Rutgers University Center for Alcohol Studies

REQUEST No. 10: Robert Pandina was the director of the Rutgers University Center for Alcohol Studies at the time of the disbursement described in Request No. 9

REQUEST No. 11: Robert Pandina was consulted by the Union County Proscutor's Office in connection with the criminal case against Plaintiff for the alleged homicide of Joseph J. Galfy, Jr.

REQUEST No. 12: Defendant obtained a Certification of Letters Testamentary regarding the Estate of Joseph J. Galfy, Jr. on March 21, 2016

REQUEST No. 13: The Union County Prosecutor's Office wrote a letter to Plaintiff's counsel on March 23, 2016, the true copy of which was attached to the proposed amended complaint in the above-captioned case

REQUEST No. 14: The Union County Prosecutor's Office contacted Defendant within 7 days prior to March 21, 2016

REQUEST No. 15: Defendant's acquisition of the Certificate of Letters Testamentary described in Request No. 12 was a result of the Union County Prosecutor's Office contact described in Regust No. 14

REQUEST No. 16: The Estate of Joseph J. Galfy, Jr. has a bank account at the Bank of America, Account # 381034636525, Bank # 02120033

REQUEST No. 17: The bank account described in Request No. 16 is under the care, custody, or control of James Galfy

REQUEST No. 18: The disbursements from the Estate of Joseph J. Galfy, Jr. described in Requests No. 7 & 9 were both drawn from the bank account described in Request No. 16

REQUEST No. 19: The disbursement described in Request No. 9 caused a conflict of interest with Robert Pandina that prevented him from testifying at Plaintiff's trial for the homicide of

Joseph J. Galfy, Jr.

REQUEST No. 20: Defendant was aware of the confilct of interest described in Request No. 19 subsequent to the meeting described in Request No. 14

REQUEST No. 21: Defendant made no effort to correct his creation of the conflict of interest described in Request No. 19 after being made aware of it

REQUEST No. 22: Defendant has made other disbursements from the Estate of Joseph J. Galfy from the account described in Request No. 16

- 3. The Requests for Admissions attached to this Declaration as Exhibit A is a true and correct copy of the Request served on James Galfy.
- 4. The Certificate of Service and postage remit and return receipt attached as Exhibit B is a true and correct copy of the Certificate of Service attached to the Requests served on James Galfy and of the postage remit evidencing my mailing of same and of the return receipt evidencing James Galfy's receipt of same.
- 5. As of today's date, James Galfy has failed to respond within the 30 days alotted by the Court Rules, and is deemed to have admitted the Requests as true.
- 6. I declare under penalty of perjury that all documents attached hereto are true and accurate copies of the originals.
- 7. I declare under penalty of perjury that all of these facts are true and correct as of my own, personal knowledge.

Dated.

By: Caleb L. McGillvary, Pro Se #1222665/SBI#102317G NJSP

PO Box 861 Trenton, NJ

08625-0861

# Exhibit A

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

CALEB L. MCGILLVARY	) CIVIL ACTION NO.
PLAINTIFF	) 2:21-cv-17121-MCA-CLW
	) Hon. Madeline Cox-Arleo, USDJ
V.	) Hon. Catherine L. Waldor, USMJ
	)
JAMES GALFY ET AL.	)
DEFENDANT	)
	·

# PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSIONS

PROPOUNDING PARTY: Caleb L. McGillvary
RESPONDING PARTY: James Galfy, The Estate of Joseph J. Galfy,
Jr.
SET NO. 1

#### Instructions

Caleb L. McGillvary requests that you admit all of the following matters for purposes of this action. Under the provisions of Rule 36 of the Federal Rules of Civil Procedure, you are required to respond to these Requests for Admissions, in writing, within 30 days of the service of these Requests. Your response must be signed as required by Rule 26(g) of the Federal Rules of Civil Procedure. If you fail to respond to these Requests for Admissions within the time allowed, every matter set forth in these requests may be deemed admitted and conclusively established against you for purposes of this action.

Requests that James Galfy and the Estate of Joseph J. Galfy,  ${\tt Jr.}$ 

#### ADMIT THAT:

REQUEST No. 1: Defendant identified the body of Joseph J. Galfy, Jr. at the University of Medicine and Dentistry of New Jersey Hospital

RESPONSE:		

REQUEST No. 2: During the identification described in Request No. 1, Junaid Shaikh, M.D. was present
RESPONSE:
REQUEST No. 3: Defendant has previously participated in criminal investigations in which there were autopsies performed by a medical examiner
RESPONSE:
REQUEST No. 4: Defendant knew that Junaid Shaikh, by virtue of his being the medical examiner who conducted the autopsy of Joseph J. Galfy, Jr., was likely to be a witness in any homicide trial concerning Joseph J. Galfy, Jr.
RESPONSE:
REQUEST No. 5: The identification described in Request No. 1 occurred prior to the disbursement of any of the Estate of Joseph J. Galfy, Jr.
RESPONSE:
REQUEST No. 6: Defendant knew at the time of the identification described in Request No. 1 that the University of Medicine and Dentistry of New Jersey was the workplace of Junaid Shaikh.
RESPONSE:
REQUEST No. 7: Defendant disbursed \$150,000 from the estate of Joseph J. Galfy, Jr. to the University of Medicine and Dentistry of New Jersey
RESPONSE:
REQUEST No. 8: Defendant's disbursement described in Request No. 7 occurred subsequent to the identification described in Request No. 1
RESPONSE:
REQUEST No. 9: On April 28, 2015, Defendant personally signed a check for \$150,000 payable to the Rutgers University Center for Alcohol Studies
RESPONSE:
REQUEST No. 10: Robert Pandina was the director of the Rutgers University Center for Alcohol Studies at the time of the disbursement described in Request No. 9
RESPONSE:

REQUEST No. 11: Robert Pandina was consulted by the Union County Prosecutor's Office in connection with the criminal case against Plaintiff for the alleged homicide of Joseph J. Galfy, Jr.
RESPONSE:
REQUEST No. 12: Defendant obtained a Certification of Letters Testamentary regarding the Estate of Joseph J. Galfy, Jr. on March 21, 2016
RESPONSE:
REQUEST No. 13: The Union County Prosecutor's Office wrote a letter to Plaintiff's counsel on March 23, 2016, the true copy of which was attached to the proposed amended complaint in the above-captioned case
RESPONSE:
REQUEST No. 14: The Union County Prosecutor's Office contacted Defendant within 7 days prior to March 21, 2016
RESPONSE:
REQUEST No. 15: Defendant's acquisition of the Certificate of Letters Testamentary described in Request No. 12 was a result of the Union County Prosecutor's Office contact described in Request No. 14
RESPONSE:
REQUEST No. 16: The Estate of Joseph J. Galfy, Jr. has a bank account at the Bank of America, Account # 381034636525, Bank # 02120033
RESPONSE:
REQUEST No. 17: The bank account described in Request No. 16 is under the care, custody, or control of James Galfy
RESPONSE:
REQUEST No. 18: The disbursements from the Estate of Joseph J. Galfy, Jr. described in Requests No. 7 & 9 were both drawn from the bank account described in Request No. 16
RESPONSE:
REQUEST No. 19: The disbursement described in Request No. 9 caused a conflict of interest with Robert Pandina that prevented him from testifying at Plaintiff's trial for the homicide of Joseph J. Galfy, Jr.
RESPONSE:

#### CERTIFICATE OF SERVICE

Barabara Schwartz
 Attorney for James Galfy and the Estate of Joseph J. Galfy,
 Jr.
 Mountain Blvd.
 Warren, NJ 07059

I declare under penalty of perjury that the foregoing statements are true and accurate

Dated:

Caleb L. McGillvary, Pro S

# Exhibit B

The state of the s
CO-30 A NEW JERSEY STATE PRISON Rev. 3/1/21
POSTAGE REMIT
DATE: 2/14/24 LOCATION: ( ) CS
SBI NUMBER: 1073176
INMATE NAME: CALES MCGILLVARY
INMATE SIGNATURE: 4400
TO PHONEOGRAPHOED
O: BUSINESS MANAGER DATE MAILED:
✓ Legal Postage \$ Э
Certified Cert. #70041350000404778998
V Return Receipt Requested 3.55
Postage Affixed; SEND DIRECT Legal Postage Only TO MAILROOM
Regular Postage or UPS Property
Additional Insurance Amount \$
No Postage Inter Office Mail
Weight of Mail/Property Total Postage and Fees \$
SENT TO: BARBARA SCHWARTZ
ADDRESS: PRINT 37 MOUNTAIN BUND. WARLEN NO
07059 ENU, ROST PRO DUAT, INTGTR, RUST ADMUNS
WITNESS: APPROVED BY
SIGNATURE:
CHECK#

# Exhibit C

'		
SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON	DELIVERY
■ Cómplete items 1, 2, and 3.  ■ Print your name and address on the reverse so that we can return the card to you.  ■ Attach this card to the back of the mailpiece, or on the front if space permits.  1. Article Addressed to:  \$ AMBALA SCHWANTT  57 MIUNIAN BWD VALHEN N 57057  ENCU. ROST TO PRODUCE DOLUMENTS, INTERMOGRATION BY ROST FOR DOMISSIONS	B. Received by (Printed Name)  D. Is delivery address different from If YES, enter delivery address	Agent  Addressee  C. Date of Delivery  The item 1?  Yes  below:  No
9590 9402 4977 9063 4409 51  2. Article Number (Transfer from service label)  7004 1350 00040417 8998	3., Service Type    Adult Signature   Adult Signature Restricted Delivery   Certified Mail®   Certified Mail Restricted Delivery   Collect on Delivery   Collect on Delivery   Insured Mail   Insured Mail Restricted Delivery (over \$500)	□ Priority Mail Express® □ Registered Mail™ □ Registered Mail Restricted Delivery ☑ Return Receipt for Merchandise □ Signature Confirmation □ Signature Confirmation Restricted Delivery
PS Form 3811 July 2015 PSN 7530-02-000-9053		Domestic Return Receipt

NSSP Po By 2:21-cv-17121-MCA-CLW Document 94 Filed 04/12/24 Page 21 of 21 PageID: 1302

TRENTON, NJ 08625



DISTRICT OF NEW JERSEY RECEIVED

2024 APR 12 A 10:59

CLERY US DIST CT - DNJ US COURTHOUSE 50 WALNUT ST, NEWARK, NJ 07/02

